

IDAHO BOARD OF MORTICIANS
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 7/14/2015

BOARD MEMBERS PRESENT: James H. Opdahl - Chair
Craig L. Geary
David L. Hutton

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, General Counsel
Eric Nelson, Board Prosecutor
Cherie Simpson, Management Assistant
Erin Anderson, Technical Records Specialist

OTHERS PRESENT: Susan Rudai, Funeral Consumers Alliance of Idaho

The meeting was called to order at 9:01 AM MDT by James H. Opdahl.

APPROVAL OF MINUTES

Mr. Hutton made a motion to approve the minutes of 6/2/2015. It was seconded by Mr. Geary. Motion carried.

AMEND AGENDA

Mr. Hutton made a motion to amend the agenda to add correspondence from The Conference. The purpose of the discussion was to inform the Board of tests administered by The Conference that had been jeopardized and the information was just received. It was seconded by Mr. Geary. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She said that House Bill 116 had passed, which allows the Board to be able to assess costs, fees and attorney fees incurred in investigations and prosecutions. She reminded the Board that any law change proposals would need to be submitted to the Governor's Office by August 1, and any proposed rule changes would need to be submitted by the third week of August.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$17,348.29 as of 6/30/2015.

Ms. Hall also presented the Board's 2016 Contract. Mr. Hutton made a motion to approve the contract and authorize the Chair to sign. It was seconded by Mr. Geary. Motion carried.

DISCIPLINE

Mr. Nelson presented a memorandum regarding case numbers MOR-2015-9 and MOR-2015-10. After discussion, the Board gave recommendations for appropriate discipline.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

FOR BOARD DETERMINATION

Mr. Hutton made a motion to approve the Bureau's recommendation and authorize closure with an advisory letter in cases I-MOR-2015-4, I-MOR-2015-5, I-MOR-2015-6 and I-MOR-2015-7. It was seconded by Mr. Geary. Motion carried.

REINSTATEMENT FEE ADJUSTMENT

Mr. Ellsworth briefly reviewed the change in Idaho Code § 67-2614 in relation to the laws and rules of the Board. This statute changed the reinstatement fee of a license to \$35 unless otherwise provided by Board rules. Mr. Ellsworth asked the Board if it would like to keep its reinstatement fee as \$250 or join with other Boards the Bureau serves which are working on an omnibus rule in response to the statute change. The Board chose to keep its current reinstatement fee of \$250.

CORRESPONDENCE

Mr. Ellsworth discussed with the Board a letter received from The Conference. The Conference informed the Board that there had been a security breach of the National Based Exam by a school. The parties involved are being notified of the investigation being done by The Conference, giving them an opportunity to respond to the allegations. The Conference also stated that some individuals have had their scores invalidated due to their participation in the security breach.

OLD BUSINESS

TO DO LIST

RE-EXAM

Discussion was held on how soon after taking and failing the state jurisprudence exam an applicant for licensure can re-take the exam. A motion was made by Mr. Hutton that an applicant must wait 30 days before being rescheduled to take the state jurisprudence exam. It was seconded by Mr. Geary. Motion carried.

LAW AND RULE CHANGES/SUBCOMITTEE UPDATE

Mr. Hales, Mr. Hutton and Mr. Ken Mallea were members of the Morticians Board sub-committee to look at possible law and rule changes. Mr. Hales presented to the Board a letter from Mr. Mallea that included the association's input. Mr. Mallea informed the Board that the association was comfortable with the current procedure of record retention. It appears that most Funeral establishments work together to transfer records when a facility closes. The second topic was local hospitals using crematories to cremate medical waste. The Board wondered if the inspection form from the Bureau should be corrected to reflect these cremations. The members did not think it was necessary to add this because the establishments keep their own records. Discussion was held on Resident Trainee permits. The association members felt that the Resident Trainee law could be more flexible to allow for more training time. After discussion, the Board requested that Idaho Code 54-1112(4) be amended to read as follows: Has filed an application with the board as required by this chapter and paid the required filing fee. Provided further, that the board shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the board. Provided further, no person shall be eligible to be licensed as a resident trainee for a total cumulative period of more than three (3) years in the state of Idaho unless approved by the board for good cause. *The three (3) year limitation includes all time practicing as a resident trainee or apprentice for a mortician license, funeral director license or both.* The Board directed the Bureau to draft these proposals for submission to the Governor's office.

The Board also discussed adding to Idaho Code 54-1132 two additional codes that would require the mortician selling a pre-need sales contract to designate the funeral establishment he is currently employed with as the funeral establishment that will provide any funeral or cemetery merchandise to the customer. The second code stated that the funeral establishment that is designated in the pre-need contract will also maintain all contracts and documents associated with that pre-need sale.

A motion was made by Mr. Hutton to approve the additions to Idaho Code 54-1132 and submit to the Governor's office. It was seconded by Mr. Geary. Motion carried.

LACK OF ACTIVITY

Discussion was held in regard to funeral home and crematory establishment applicants that have an approval pending a passing inspection. The Board had concern over establishment applications that have an approval pending inspection that have not contacted the Board for inspection. The Board discussed adding a lack of activity sentence to Rule 200 for licensure applicants and adding to Rule 450 that the establishment applicant must be ready for inspection within 6 months of receiving approval from the Board. The Board directed the Bureau to draft these changes to submit to the Governor's office.

ELECTION

Mr. Hutton made a motion to elect Mr. Geary as Board Chair. It was seconded by Mr. Opdahl. Motion carried.

CAR RENTAL

Mr. Geary made a motion to approve the car rental for Mr. Hutton and authorize the Board to pay the expense. It was seconded by Mr. Opdahl. Motion carried.

NEW BUSINESS

CORRESPONDENCE

The Board reviewed correspondence submitted by Ms. Debbie Aguirre-Shank. Ms. Aguirre-Shank requested a year extension on her Funeral Director Resident Trainee permit so that she may be allowed to continue working while obtaining the rest of her education required for licensure. The Board denied her request. A motion was made by Mr. Hutton to inform Ms. Aguirre-Shank to submit a new application as a Mortician Resident Trainee. It was seconded by Mr. Geary. Motion carried.

The Board reviewed correspondence submitted by Mr. Tyrell Nash. Mr. Nash requested a year extension on his Mortician Resident Trainee permit so that he can complete his education. The Board requested that Ms. Anderson inquire with Mr. Nash when he will be finished with school and to contact them when his permit expires.

The Board reviewed correspondence submitted by Mr. Richard Lassiter. Mr. Lassiter was trying to confirm if the Board would accept the type of educational course he was going to attend to complete his application for licensure. The Board requested that Ms. Anderson respond to Mr. Lassiter, informing him that the Board will review his transcripts at the time he submits his application to determine if they meet the educational requirements of Rule 300.

EXECUTIVE SESSION

Mr. Hutton made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Mr. Geary. The vote was: Mr. Hutton, aye; Mr. Geary, aye; and Mr. Opdahl, aye. Motion carried.

Mr. Hutton made a motion to come out of executive session. It was seconded by Mr. Geary. The vote was: Mr. Hutton, aye; Mr. Geary, aye; and Mr. Opdahl, aye. Motion carried.

APPLICATIONS

Mr. Hutton made a motion to approve the following for licensure pending receipt of additional documentation and final Chair review:

#901140267

#901134285

It was seconded by Mr. Geary. Motion carried.

MCA/CONTINUING EDUCATION AUDITS AND REINSTATEMENTS

The Board members reviewed and approved the MCA audit, CE audit, and CE for reinstatement.

NEXT MEETING was scheduled for 1/12/2016 AM MST.

ADJOURNMENT

Mr. Hutton made a motion to adjourn the meeting at 12:16 PM MDT. It was seconded by Mr. Opdahl. Motion carried.

James H. Opdahl, Chair

Craig L. Geary

David L. Hutton

Tana Cory, Bureau Chief